

PROB. 12C  
DNE 03/2004

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**Petition for Warrant or Summons for Offender Under Supervision**

**Offender:** **Marcus D. Wheeler** **Docket Number:** **8:07CR00356**

**Type of Supervision:** **Supervised Release** **Date of This Report:** **March 28, 2013**

**Sentencing Judge:** **The Honorable Joseph F. Bataillon**  
**U. S. District Judge**

**Offense of Conviction:** **Possession with Intent to Distribute More Than 50 Grams Cocaine Base [21 U.S.C. 841(a)(1) and (b)(1)]**  
**Date Sentenced:** **December 1, 2008**  
**Sentence:** **66 months custody, 5 years supervised release**

**Supervision Term:** **September 7, 2012 through September 6, 2017**

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**Prepared By:** **Alicia Friedman** **Assistant U.S. Attorney:** **Nancy Svoboda** **Defense Attorney:** **David Stickman**  
**U. S. Probation Officer** **FPD**

**PETITIONING THE COURT**

The undersigned probation officer recommends that a Warrant be issued for service upon Marcus D. Wheeler and that a hearing be held by the Court to determine whether the offender has violated the conditions of supervision as set forth in this report and to determine whether the offender's supervision should be revoked or continued, modified, and/or extended based on the alleged violations. A Warrant is requested as Marcus D. Wheeler is alleged to have committed a crime of violence and poses a risk for committing future violent crime. Marcus D. Wheeler is also in the custody of another authority, awaiting disposition on separate charges. To expedite the issuance of a warrant, the updated presentence report and worksheets do not accompany this report, but will be provided to the Court by April 5, 2013.

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The probation officer believes the offender has violated the following conditions of supervision:

<b><u>Allegation No.</u></b>	<b><u>Nature of Noncompliance</u></b>
1	<p>Marcus D. Wheeler is in violation of <b>the Mandatory Condition</b> which states, “The defendant shall not commit another federal, state, or local crime.”</p> <p>On December 21, 2012, Marcus Wheeler illegally possessed a firearm as a convicted felon. He allegedly used this firearm to commit a felony assault on a female victim by shooting at her approximately 10 times while she was in her vehicle. All of the rounds struck the vehicle, but did not injure the victim. This incident occurred at 12:47 A.M. in front of the offender’s house. As a result of the offender’s conduct, Omaha (NE) Police Officers arrested him for the crimes of Using a Firearm to Commit a Felony (Class 1D Felony), Possession of a Firearm by a Prohibited Person (Class 1C Felony), and Attempted First Degree Assault (Class III Felony). Marcus Wheeler was booked into Douglas County Corrections Center on March 27, 2013; these charges are now pending in Douglas County Court.</p> <p><b>If the Court finds the offender has violated this condition, which is a grade A or B violation, revocation is mandatory.</b></p>
2	<p>Marcus D. Wheeler is in violation of <b>the Mandatory Condition</b> which states, “The defendant shall not commit another federal, state, or local crime.”</p> <p>On March 5, 2013, Marcus Wheeler possessed less than one ounce of marijuana. Omaha Police Officers made contact with the offender due to a traffic violation and he granted permission to search the vehicle that he was operating. The search yielded a bag containing less than one ounce of marijuana, located inside the pocket of a coat on the passenger’s seat. As a result of his conduct, the offender was cited for Possession of Marijuana, Less Than One Ounce (infraction). This case is currently pending in Douglas County Court.</p>
3	<p>Marcus D. Wheeler is in violation of <b>the Mandatory Condition</b> which states, “The defendant shall not commit another federal, state, or local crime.”</p> <p>On March 27, 2013, Marcus Wheeler possessed marijuana inside his home. Omaha Police Officers executed a search warrant at the offender’s residence and located more than two ounces of marijuana at various places inside the home. As a result of his conduct, he was arrested for Possession with Intent</p>

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to Deliver Marijuana (Class III Felony). He has been booked into Douglas County Corrections Center and this charge is pending in Douglas County Court.

**If the Court finds the offender has violated this condition, which is a grade A or B violation, revocation is mandatory.**

4. Marcus D. Wheeler is in violation of **the Mandatory Condition** which states, "The defendant shall not commit another federal, state, or local crime."

On March 27, 2013, Marcus Wheeler possessed destructive devices in the form of Molotov Cocktails. Omaha Police Officers executed a search warrant at the offender's residence and located these explosive devices inside the home. As a result of his conduct, he was arrested for Possession of a Destructive Device (Class IV Felony). He has been booked into Douglas County Corrections Center and this charge is pending in Douglas County Court.

**If the Court finds the offender has violated this condition, which is a grade A or B violation, revocation is mandatory.**

- 5 Marcus D. Wheeler is in violation of **the Mandatory Condition** which states, "The defendant shall not possess a firearm, destructive device, or any other dangerous weapon."

On December 21, 2012, Marcus Wheeler allegedly possessed a functional firearm, which was used in the commission of the crimes outlined in allegation No. 1.

**If the Court finds the offender has violated the conditions of supervision by possessing a firearm, the Court shall revoke supervision and impose a sentence which includes a term of imprisonment.**

- 6 Marcus D. Wheeler is in violation of **the Mandatory Condition** which states, "The defendant shall not illegally possess a controlled substance."

On March 5, 2013, and again on March 27, 2013, Marcus Wheeler possessed the controlled substance marijuana, as related to allegation Nos. 2 and 3.

**If the Court finds the offender has violated the conditions of supervision by possessing a controlled substance, the Court shall revoke supervision and impose a sentence which includes a term of imprisonment.**

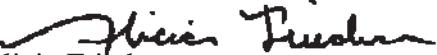
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Assistant U.S. Attorney Nancy Svoboda has been notified of this action.

I declare under penalty of perjury that the forgoing is true and correct.

Respectfully submitted,

  
Alicia Friedman  
U. S. Probation Officer

Reviewed by,

  
Douglas D. Steensma  
Supervising U. S. Probation Officer

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**THE COURT ORDERS THAT:**

\_\_\_\_\_  
No action shall be taken.

✓ A Warrant shall be issued for service upon Marcus D. Wheeler and a hearing held by the Court to determine whether Marcus D. Wheeler has violated the conditions of supervision as set out in the foregoing report and to determine whether the term of supervision should be revoked, continued, modified, and/or extended based on the alleged violations.

\_\_\_\_\_  
The U. S. Probation Officer shall summons Marcus D. Wheeler to appear for a hearing in court to determine whether Marcus D. Wheeler has violated the conditions of supervision as set out in the foregoing report and to determine whether the term of supervision should be revoked, continued, modified, and/or extended based on the alleged violations.

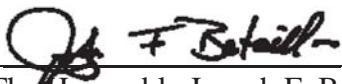
\_\_\_\_\_  
The following action to be taken (specify other action):

**If a warrant is issued, the petition shall not be sealed and the following action shall be taken (specify other action).**

\_\_\_\_\_  
A Writ of Habeas Corpus Ad Prosequendum shall be issued and the defendant brought before the U.S. Court for an Initial Appearance on this matter.

✓ The Federal Public Defender is appointed to represent the above named defendant in this matter. In the event that the Federal Public Defender accepts this appointment, the Federal Public Defender shall forthwith file a written appearance in this matter. In the event the Federal Public Defender should decline the appointment for reasons of conflict or on the basis of the Criminal Justice Act Plan, the Federal Public Defender shall forthwith provide the court with a draft appointment order (CJA Form 20) bearing the name and other identifying information of the CJA panel attorney identified in accordance with the Criminal Justice Act Plan for this district.

The defendant may contact the Office of the Federal Public Defender for the District of Nebraska regarding the alleged violation and possible penalties (402/221-7896).

  
\_\_\_\_\_  
The Honorable Joseph F. Bataillon  
U. S. District Judge

3/28/2013

\_\_\_\_\_  
Date

\* \* \* NOTICE TO OFFENDER \* \* \*

**Pursuant to the Federal Rules of Criminal Procedure 32.1(b)(2) you are entitled to:**

- (A) **written notice of the alleged violation(s);**
- (B) **disclosure of the evidence against you;**
- (C) **an opportunity to appear, present evidence, and question adverse witnesses unless the court determines that the interest of justice does not require the witness to appear;**
- (D) **notice of your right to retain counsel or to request that counsel be appointed if you cannot obtain counsel.**